



W.P.(MD)No.8890 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.06.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**
and
THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.P.(MD)No.8890 of 2022
and W.M.P.(MD) No.6445 of 2022

A.Shagul Hameed

... Petitioner

Vs.

The Authorized Officer,
HDFC Bank Ltd.,
Retail Agri, No.49/50,
NM Towers, 2nd Floor,
Amjikkarai,
Chennai – 600 030.

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, praying to call for the entire records pertaining to the order dated 22.04.2022 passed in Cr.M.P.No.5147 of 2021, on the file of the learned Chief Judicial Magistrate, Sivagangai, issued under Section 14(1) & 14(2) of SARFAESI Act, by the respondent bank and quash the same as illegal.

For Petitioner

: Mr.A.Mohan

For Respondent

: Mr.B.Rajesh Saravanan

Standing Counsel

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ORDER

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(Order of the Court was made by **S.S.SUNDAR, J.**)

Challenging the order of learned Chief Judicial Magistrate, Sivagangai, dated 22.04.2022, made in CrI.M.P.No.5147 of 2021 u/s 14 of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act), the above writ petition is filed.

2. Heard Mr.A.Mohan, learned counsel for the petitioner as well as Mr.B.Rajesh Saravanan, learned Standing Counsel for the respondent.

3. By the impugned order, learned Chief Judicial Magistrate has appointed an Advocate Commissioner to handover possession to the secured creditor/respondent Bank with the assistance of police and local Village Administrative Officer.

4. When the writ petition was admitted, this Court granted an order of interim stay on condition that the petitioner should deposit a sum of Rs.25,00,000/- on or before 24.05.2022 and



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a further sum of Rs.25,00,000/- on or before 24.06.2022. Earlier an application was filed for modification of the order dated 29.04.2022 in W.M.P.(MD) No.6445 of 2022 so as to deposit the amount by the petitioner and it was dismissed as not pressed based on the endorsement made by learned counsel for the petitioner. Thereafter, another petition was filed in W.M.P.(MD) No.7609 of 2022 for extending time by three months and it was ordered on 25.06.2022, granting time till 20.06.2022 for payment of first instalment. Despite that, learned counsel for the petitioner states that the petitioner is unable to make any payment.

5. Learned counsel for the petitioner is unable to produce any verifiable material to justify the bonafide attempts of the petitioner to mobilize funds for making payment as per the direction of this Court. Merely because the secured asset, possession of which is sought to be taken, is a residential house, the petitioner cannot take advantage to file extension petitions one after another for no valid reasons.

6. This Court is unable to find any promising circumstances to indicate that the petitioner could mobilize funds to



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save the possession of the property. The petitioner having failed to pay the first and second instalments, this Court finds that no useful purpose will be served in keeping the Writ Petition pending. Hence, this Writ Petition is dismissed. However, it is open to the petitioner to challenge the further proceedings, if it is not in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
29.06.2022

Index : Yes / No
sj

To

The Chief Judicial Magistrate,
Sivagangai.



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S.S.SUNDAR, J.

and

S.SRIMATHY, J.

sj

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